

# Applying for an Upgrade of Your Discharge/Dismissal

## Army Discharge Review Board

This fact sheet contains detailed answers to common questions concerning applying to have a discharge upgraded. This fact sheet is not intended as a substitute for speaking with a defense attorney. For further information contact the Aberdeen Proving Ground Trial Defense Service office at (410)278-2156/5389.

**Who may apply?** Former members of the Regular Army, the Army Reserve, and the Army National Guard may submit an application (DD Form 293) to the Army Discharge Review Board (ADRB). If the former member is deceased or incompetent the surviving spouse, next of kin, or legal representative may apply (application must include supporting documentation, i.e. certified copy of marriage license, death certificate, or powers of attorney).

**What do I do first?** If you need any of your personnel records for inclusion in your application, obtain them before you submit your request for review. After your application for discharge review is submitted your records are sent to the ADRP where they cannot be reproduced. To obtain copies of your military personnel records, submit a Standard Form 180 (Request Pertaining to Military Records) to:

National Personnel Records Center (NPRC)

9700 Page Boulevard, St. Louis, MO 62132-5200

**How do I apply?** After you have all your documents ready, submit an original completed and signed Application for Review of Discharge or Dismissal (DD Form 293). Blank forms and instructions are available on the ADRB web site: <http://arba.army.pentagon.mil/adrb.htm>. Application forms can also be obtained by sending a request to:

Army Review Boards Agency (AREA)  
ATTN: Client Information and Quality Assurance  
Arlington, VA 22202-4508  
Telephone assistance is available at 1-703-607-1600

**How long do I apply?** Request for review must be made within 15 years of discharge/dismissal. We suggest that you wait at least a short time (6 months – 2 years) of discharge before applying to the ADRB in order to allow time for you to establish some references in the civilian community where you live.

**What characterization of discharge can I request?** You can apply to have your discharge upgraded to honorable the first time you apply, regardless of the characterization of discharge you were awarded. However, we suggest you be realistic in your request. Soldiers discharged under Other Than Honorable conditions after 1 October 1982 while in entry-level status (less than 6 months service) may request upgrade to an uncharacterized discharge. To do this, write in block 3c “Change to Entry Level Separation.”

**What reasons justify an upgrade of my discharge?** There are two grounds for upgrading a discharge:

1. **Propriety** – requesting change in discharge due to an error in the application of a regulation, statute, constitutional provisions or other source of law.
2. **Equity** – requesting change in discharge due to (1) the policies and procedures under which you were discharged differing in material respects from those currently applicable on a service-wide basis, (2) the

discharge being inconsistent with the standards of discipline in the military service of which you were a member at the time of issuance: (3) you exemplary service record and other evidence presented to the ADRB; or (4) your capability to serve (age, educational level and aptitude score, family and personal problems, capricious actions, or discrimination).

**Can I appear personally before the review board?** Yes. There are three types of reviews; the first two involve personal appearance:

1. **Resident Panel Hearing** – a review involving an appearance before the ADRB in Arlington, VA. By you and/or representative. You must pay your own and your counsel’s travel expenses.
2. **Traveling Panel Hearing** – a review involving an appearance before the ADRB at the regional location you request by you and/or your counselor representative. The traveling panel holds reviews at each regional location approximately 1 time each year. You must pay your own and your counsel’s travel expenses.
3. **Record** – a review of the application, available service record, and documents submitted by you or on your behalf. There is no personal appearance by your and/or your counsel or representative.

**Can I submit a brief or supporting cases, regulations, previous decisions, etc. with my application?** Yes although when a brief is submitted, we recommend that you list specific issues discussed in the brief separately at the beginning of your brief and that you separately identify each of these issues in the issues block of the DD Form 293. Also, for clarification purposes, we recommend that you cite on the DD Form 293 the page and paragraph of the brief where the issue is raised. Also, to save time in the review process, you should attach copies of cited cases, excerpts from regulations, and copies of previous decisions.

**What if I want to apply for a change in my “Reasons for Discharge”?** You must specifically note that as a reason for your application in Block 3c of the application and provide documents to support your issue(s). If you fail to do this, the ADRB will assume you are applying for an upgrade of the characterization of your discharge only.

**Can I apply to the ADRB for a change in my RE Code?** NO, RE code change questions should be directed to Commander, PERSCOM, ATTN: TAPC-EPR-P, Alexandria, VA 22331.

**Can I apply to the ADRB for a discharge I received at court-martial?** Yes, that ADRB processes all applications for upgrades long as they are filed within 15 years from the date of discharge. Application for upgrade after 15 years from the date of discharge must be submitted to the Army Board for the Correction of Military Records (DD Form 149).

**If my discharge is upgraded, will I receive my Montgomery GI Bill or get the money I paid into it back?** No not necessarily. The ADRB does not make decisions on policies and procedures related to the Montgomery GI Bill. Your local Department of Veterans Affairs can assist you with such matters.

**How long does it take to process an application?**

1. Personal appearance (Arlington, VA) – approximately two to three months
2. Personal appearance (regional location) – approximately twelve months
3. Records reviews – approximately six months

**Can I ask for a reconsideration of my application?** Yes, you may apply for reconsideration as often as you wish. However, the primary reason for reconsideration is due to newly discovered evidence. When applying for this reason, you must show new, substantial and relevant evidence that was not available at the time of any previous review. A record of all ADRB reviews and findings are maintained. Therefore, if a comparison

shows that the evidence you submit would have had a probable effect, the request for reconsideration should be granted. Other reasons for consideration include, but are not limited to, representation by a counselor representative on your behalf when your previous application did not involve such representation and retroactive changes in discharge policies that are announced after your earlier review. AR 15-180 outlines the complete eligibility criteria for reconsideration of a discharge review.

**Sources of Information:** AR 15-180

DoD Directive 1332.28

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## **BENEFITS UPON SEPARATION**

Often, the first question soldiers pending separation is “What benefits do I get?” This is not an easy issue, and subject to constant change. Benefits accorded administratively discharged soldiers vary based upon (1) the basis for discharge; (2) the character of service; and (3) the length of service. Prerequisites frequently change. Listed below are some benefits soldiers frequently ask us about, and the general rules that apply.

**Separation Pay** *See 1992 DoD Pay Manual, paragraph 40411-40416*

A soldier separated involuntarily with an honorable discharge, who has a minimum of six years service, may be eligible for full separation pay. Examples include soldiers discharged because of a Reduction in Force or failure to attain retention control points. The formula for computing separation pay is: 10% ((monthly base pay)(years of service)(12)). EX: E4 with 6 years of service = 10%(1322.40)(6)(12)=\$9,521.28.

**Half Separation Pay** *See DoD Pay Manual paragraph 40411b*

A soldier separated involuntarily, with an honorable or general discharge, who has a minimum of six years of service, who is not qualified for retention and denied reenlistment may be eligible for half separation pay. Examples include soldiers denied reenlistment for local or DA Bar to reenlistment (i.e. QMP, RCP), separations for the convenience of the government such as personality disorders or parenthood (AR 635-290, Chapter 5), for homosexuality (Chapter 15), for drug or alcohol rehabilitation failure (Chapter 9), and weight control failure (Chapter 18). The formula for computing half separation pay is that provided for full separation pay, divided by 2. In the example above the E4 would be entitled to \$4,760.64.

**Payment for Accrued Leave** *See DoD Pay Manual, paragraph 40401*

Payment of up to 60 days accrued leave is authorized for soldiers separated with a fully honorable or general discharge. A soldier separated under other than honorable conditions is not paid for accrued leave, nor is accrued leave credited toward any outstanding debts owed the government.

**Montgomery GI Bill Benefits**

Generally, eligibility for education benefits requires minimum periods of service (20 months for a 24-month enlistment: 30 for a 36 month enlistment) and an honorable discharge. VA reserves the right to upgrade a discharge, so soldiers with less than fully honorable discharges should be referred to their local VA office.

**Household Goods Shipment** *See Joint Federal Travel Regulation U5317, U5370, Change 82, 10/1/93*

A member without dependents, separated incident to a court-martial, or administrative discharge under other than honorable conditions, is not authorized shipment of household goods at government expense. A member with dependents, separated incident to court-martial or with an under other than honorable conditions discharge is authorized shipment of household goods to a designated place, but is not authorized non-temporary storage. Separations with an honorable or general discharge are authorized both shipment and up to one year of non-temporary storage.

**Benefits for Involuntary Separations**

Members separated involuntarily, for other than court-martial or misconduct, or entitled to:

1. Continued DoD medical coverage for up to 120 days;
2. Continued use of Commissary, PX, and MWR privileges for up to 2 years;
3. Apply for extension to remain in government quarters for up to 180 days.

These benefits are not authorized for service members separating voluntarily, unless they receive SSI or SSB, ETS and Chapter 10 AR 635-200 (In Lieu of Court-Martial) are examples of voluntary separations.

**Re-Enlistment Codes**

On separation, a service member's DD 214 is annotated with a re-enlistment code. RE-1 indicates eligibility to re-enlist. RE-3 requires a waiver for re-enlistment; and RE-4 indicates the member is not eligible to re-enlist. A soldier separated as a result of a court-martial or separated under Chapter 10 receives an RE Code 4.

<b>Chapter Counseling Information</b>		
Office	Phone	Building
Transition Point	2320/2240	6266
Transportation Household Goods	554-4163	845
Finance/ETS Separations & Retirement	3552	6264
Pay Inquiries	3550/5820	6264
Travel	2415/5076	6286
Housing Assignment Termination Br.	3573/3574	1201
Education Office – GI Bill Questions	6-2124	
Counselor Support	6-9885/6-8068	

**BENEFITS AND ENTITLEMENTS**

Subject to change, may be outdated. Contact respective office for correct data

INVOLUNTARY CHAPTERS	# Days PTDY	Sep Pay	# Days Medical	2 yrs PX/COMM	1 yr HHG & Travel
Chap 5-8					
Over 6 yrs	10	Half	120	Yes	Yes
Less than 6 yrs	10	None	60	Yes	Yes
Chap 5-13					
Over 6 yrs	10	Half	120	Yes	Yes
Less than 6 yrs	10	None	60	Yes	Yes
Chap 9					
Over 6 yrs	10	Half	120	Yes	Yes
Less than 6 Yrs	10	None	60	Yes	Yes
Chap 13					
Over 6 yrs	10	None	120	Yes	Yes
Less than 6 yrs	10	None	60	Yes	Yes
Chap 15					
Over 6 yrs	10	Half	120	Yes	Yes
Less than 6 yrs	10	None	60	Yes	Yes
Chap 16-8					
Over 6 yrs	20	Half	120	Yes	Yes
Chap 18					
Over 6 yrs	10	Half	120	Yes	Yes
Less than 6 yrs	10	None	60	Yes	Yes